

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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HOMESTEAD REPAIR & RENOVATION, INC.,
Individually and on Behalf of All Others Similarly
Situating,

Plaintiff,

v.

**ANSWER WITH
CROSSCLAIM**

Case No. 21-cv-388

CITY OF BUFFALO, BYRON W. BROWN, in
his capacity as Mayor of the City of Buffalo,
KEVIN HELFER, in his capacity as Commissioner
of the City of Buffalo Parking Violations Bureau,
and SENSYS GATSO USA, INC.,

Defendants.

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Defendants, City of Buffalo, and Byron W. Brown and Kevin
Helfer in their official capacities (City defendants), by their undersigned
attorney, for their answer with crossclaim to plaintiff's second amended
complaint, upon information and belief allege:

1. Lack knowledge or information sufficient to form a belief about
the truth of the allegations in paragraphs 1, 2, 3, 7, 8, 9, 11, 16, 17, 18, 19, 20,
22, 24, 25, 26, 27, 28, 29, 30, 32, 33, 36, 37, 38, 42, 43, 45, 46, 48, 50, 52, 55, 56,
61 and 62.
2. Admit the allegations in paragraphs 4, 5, 6 and 10.
3. Answering paragraphs 12, 13, 14 and 15, admit that the notice of
violation, a copy of which is attached to the amended complaint as Exhibit A,
speaks for itself.

4. Answering paragraph 21, admit that the letter, a copy of which is attached to the amended complaint as Exhibit B, speaks for itself.

5. Answering paragraph 23, admit that the communication, a copy of which is attached to the amended complaint as Exhibit C, speaks for itself.

6. Repeat and reallege the answers to the allegations in paragraphs 31, 58 and 66.

7. Admit that the contract for services between the City and Sensys Gatso referenced in paragraphs 34 and 35 speaks for itself.

8. Deny the allegations in paragraphs 39, 40, 41, 44, 47, 49, 51, 53, 54, 57, 59, 60, 63, 64, 65, 67, 68, 69, 70 and 71.

9. Admit that the ordinance amendment referenced in paragraph 56 speaks for itself.

10. Deny each and every allegation of the second amended complaint not specifically answered herein.

FOR A FIRST DEFENSE

11. The second amended complaint, in whole or in part, fails to state a claim upon which relief can be granted.

FOR A SECOND DEFENSE

12. The second amended complaint may be barred, in whole or in part, by the applicable statute(s) of limitation.

FOR A THIRD DEFENSE

13. The City defendants will assert all immunities available to them under the law.

FOR A FOURTH DEFENSE

14. Defendants Byron W. Brown and Kevin Helfer, sued in their official capacities only, are not proper parties to this action.

FOR A FIFTH DEFENSE

15. Plaintiff may have failed to exhaust all administrative remedies before commencing this action.

FOR A SIXTH DEFENSE

16. The second amended complaint may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

FOR A SEVENTH DEFENSE

17. Any payment of the civil penalty for a violation is an admission of liability.

FOR A CROSSCLAIM

18. Under the contract for services between the City and Sensys Gatso, Sensys Gatso must indemnify, defend and hold harmless the City defendants from and against any and all third party claims arising out of or related to any material breach of the representations and warranties of Sensys Gatso set forth in the contract.

19. If it is determined that any of plaintiff's claims in the second amended complaint arise out of or relate to any material breach of the representations and warranties of Sensys Gatso stated in the contract, then Sensys Gatso must indemnify, defend and hold harmless the City defendants from and against such claims.

WHEREFORE, the City defendants pray for relief and request judgment dismissing plaintiff's second amended complaint in its entirety and with prejudice or, alternatively, judgment on the crossclaim set forth herein, together with costs, and such other and further relief as the Court deems just and proper.

Dated: Buffalo, New York
September 9, 2021

Yours, etc.,

Timothy A. Ball
Corporation Counsel
Attorney for the City Defendants

By: s/David M. Lee
Assistant Corporation Counsel
City of Buffalo Dept. of Law
1104 City Hall, 65 Niagara Sq.
Buffalo, New York 14202
(716) 851-9691
dlee@city-buffalo.com

To: Edward P. Yankelunas, Esq.
HoganWillig PLLC
Attorneys for Plaintiffs
2410 North Forest Road
Amherst, New York 14068
(716) 636-7600
eyankelunas@hoganwillig.com

Defendant, Sensys Gatso USA, Inc. (as it may appear)

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2021, I electronically filed foregoing answer with crossclaim with the Clerk of the U.S. District Court for the Western District of New York, using its CM/ECF system, which would then electronically notify all CM/ECF participants on this case.

Dated: Buffalo, New York
September 9, 2021

s/David M. Lee